

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DOMINICO BUFFALINO
Plaintiff,

-against-

CSC HOLDING, LLC doing business as
Cablevision,

Defendant.
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**ORDER ADOPTING REPORT and
RECOMMENDATION**
Civil Action No. 16-4370 (DRH)(AYS)

HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation of Magistrate Judge Arlene R. Lindsay, dated May 29, 2018, recommending that (1) the motion by defendant to dismiss the complaint pursuant to Fed. R. 41(b) and 37(b)(2) be denied and Buffalino be given one final opportunity to appear for deposition and provide CSC with responses to all outstanding discovery request by June 29, 2018, with the understanding that his failure to do so will result in the immediate dismissal of the case for failure to prosecute; (2) Buffalino be sanctioned in amount equal to the reasonable costs CSC has incurred in connection with the motion; and (3) that plaintiff be warned that his failure to pay CSC the previously ordered \$620.00 sanction by June 29, 2018, or to reimburse CSC for its reasonable costs associated with this motion once those costs are determined by the Court, will be an independent ground upon which the Court will dismiss this case. More than fourteen (14) days have passed since service of the Report and Recommendation and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its

result. Accordingly, the Court adopts the May 29, 2018 Report and Recommendation of Judge Lindsay as if set forth herein. Accordingly,

IT IS HEREBY ORDERED that:

(1) the motion by defendant to dismiss the complaint pursuant to Fed. R. 41(b) and 37(b)(2) is denied;

(2) Buffalino shall appear for deposition and provide CSC with responses to all outstanding discovery request on or before June 29, 2018; his failure to do so will result in the immediate dismissal of the case for failure to prosecute;

(3) Buffalino is hereby sanctioned in amount equal to the reasonable costs CSC has incurred in connection with the motion;

(4) Buffalino shall pay CSC the previously ordered \$620.00 sanction by June 29, 2018; his failure to do so or to reimburse CSC for its reasonable costs associated with this motion within twenty (20) days of those costs being determined by the Court, will be an independent ground upon which the Court may dismiss this case; and

(5) CSC shall contact Judge Lindsay's chambers for a briefing schedule for the motion to determine its reasonable costs in connection with the motion to dismiss; said motion is hereby referred to Judge Lindsay.

Dated: Central Islip, New York
June 19, 2018

/s/ Denis R. Hurley
Denis R. Hurley
United States District Judge